

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the matter of Developing a Unified Intercarrier Compensation Regime))))	CC Docket No. 01-92
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**Reply Comments of the
Montana Public Service Commission**

I. INTRODUCTION AND SUMMARY

In its August 29, 2006 Order, the Federal Communication Commission (“FCC”) seeks comments on the “Missoula Plan” (the “Plan”). In its November 20, 2006 Order, the FCC slipped the filing date and allowed until January 11, 2007 for the filing of initial comments. In a December 22, 2006 Order (CC 01-92, DA 06-2577) the FCC granted the Early Adopter Commissions’ (“Early Adopter States”) motion seeking an extension of time to file reply comments.¹ The FCC extended the filing date for reply comments until February 1, 2007. On February 1, 2007, the Montana Public Service Commission (“MPSC”) filed reply comments.

The Early Adopter States filed on January 30, 2007 their proposal “Supporting Comparability Through a Federal Benchmark Mechanism.” In turn, the FCC in a February 16, 2007 Public Notice invited comments on this proposal, allowing until March 19, 2007 for initial comments and until April 3, 2007 for reply comment. In a later March 16, 2007 Public Notice the FCC extended the dates for initial and reply comments to March 28, 2007 and April 12, 2007, respectively. The MPSC, after

¹ FCC ORDER, CC 01-92, DA 06-2577 granted the Early Adopter Commissions’ motion. States joined in this motion include Indiana, Maine, Montana, Vermont and Wyoming.

consideration of various initial comments agrees with those commenters that support the Early Adopter States' Federal Benchmark Mechanism proposal.²

11. BACKGROUND

The MPSC commented earlier (February 1, 2007, CC 01-92) on the need for an early adopter fund mechanism. A restructure mechanism that only accounts for prospective rate rebalancing would fail to recognize efforts by companies that have already rebalanced. The FCC must strive for some balance and equity with any early adopter fund mechanism it adopts. While the MPSC does not have estimates of the amount of rate rebalancing that has occurred in Montana, the utilities the MPSC regulates have rebalanced rates.

There are numerous ways to mitigate the impacts of lowering access rates. One way involves raising local exchange rates as an offset. Another is to create a state universal service fund (USF). Still another way is by means of increased extended area service rates, one of several variants on local exchange rates. A Federal Benchmark Mechanism must minimally account for extended area service rates. Ideally, there would be an even more detailed benchmark mechanism, one that incorporates other calling area dimensions (e.g., zone increment charges).

A number of commenters filed in support of the Federal Benchmark Mechanism proposal.³ Some commenters that support the Federal Benchmark Mechanism proposal included the Blackfoot Telecommunications Group, GVNW, the Organization for the Promotion and Advancement of Small Telecommunications Companies and the Western Telecommunications Alliance.

The Blackfoot Telecommunications Group explained how in the process of rebalancing rates to accommodate extended area service, its basic residential end user

² The MPSC did not support the Plan. See MPSC's February 1, 2007 Reply Comments in CC 01-92. The MPSC's position on the Plan is unchanged.

³ Even the opposition to the Federal Benchmark Mechanism recognized its identification of the central problem with the Plan. The National Association of State Utility Consumer Advocates agree that the Federal Benchmark Mechanism recognizes the disproportionate burden that would be placed upon early adopter states by the Restructure Mechanism (March 19, 2007 Comments, p. 3).

rate increased from \$10 to \$25 for unlimited local calling. With subscriber line charge, taxes and other fees, the Blackfoot Telecommunications Group's residential rate exceeds \$34 per month.⁴ As the Blackfoot Telecommunications Group notes other carriers that participated in extended area service plan have also had to raise rates to implement extended area service. As the Blackfoot Telecommunications Group states, the extended area service plan drastically reduced its intrastate access minutes, shifting over 60% to "bill and keep" intercarrier compensation. The Blackfoot Telecommunications Group also states the Federal Benchmark Mechanism will protect it from having to raise the subscriber line charge by an additional \$2.25 per month, over and above the existing \$34 per month residential end user rate. The Blackfoot Telecommunications Group adds that the Federal Benchmark Mechanism is consistent with Section 254 in how it pursues reasonably comparable rates.

GVNW notes that when the Plan was filed, no consensus had been reached on how best to recognize earlier efforts by states to reduce intrastate access rates. The Federal Benchmark Mechanism serves to ameliorate those concerns by offsetting some or all of the subscriber line charge increases that otherwise will result. GVNW supports the Federal Benchmark Mechanism.

The Organization for the Promotion and Advancement of Small Telecommunications Companies (OPASTCO) notes that the Plan recognized the need for an early adopter fund to provide funds to states that had already reduced intrastate access rates. OPASTCO asserts that the Federal Benchmark Mechanism will both promote equity and would also improve rate comparability for customers in all states.

⁴ On November 10, 2006, Blackfoot Telecommunications Group filed comments in MPSC D2004.5.84 that support the Plan. Blackfoot Telecommunications Group said reductions in access rates for Track 3 carriers are intended to be revenue neutral, with the loss of revenue recovered by increased subscriber line charges, reciprocal compensation, unified access rates and the Restructure Mechanism. A possible shortcoming with the Plan, however, stems from the Restructure Mechanism and the subscriber line charge increases. Carriers like Blackfoot Telephone Co-op, a Blackfoot Telecommunications Group member, have changed their price structure by shifting the recovery of intrastate carrier access to local services. The Plan's Restructure Mechanism, should recognize such changes, otherwise ratepayers will experience increased subscriber line charges even though having recently incurred local rate increases to offset access rate reductions.

Specifically, the Federal Benchmark Mechanism would improve rate comparability by, in part, reducing the funding obligation of the Restructure Mechanism. OPASTCO supports the Federal Benchmark Mechanism along with the rest of the Plan.

The Western Telecommunications Alliance supported the framework of the Plan. The Federal Benchmark Mechanism is an additional proposal that it supports. The Western Telecommunications Alliance views the Federal Benchmark Mechanism as a reasonable and equitable attempt to recognize those prior state efforts at restructuring and rebalancing intrastate access rates. The Western Telecommunications Alliance also notes how the Federal Benchmark Mechanism will reduce reliance on the Restructure Mechanism.

III. Discussion

In the following, the MPSC notes its agreement with the above summarized initial comments. While the MPSC supports the Federal Benchmark Mechanism as a reasonable approach at both equity and rate comparability, it must again note that it does not endorse the Plan. The MPSC previously noted some aspects of the Plan that it does support (see MPSC's February 1, 2007 Reply Comments, CC 01-92).

The MPSC must necessarily disagree with certain of the comments of others. For example, Qwest asserts the Federal Benchmark Mechanism will exacerbate the USF problem. As noted, the Federal Benchmark Mechanism will, however, have some effect in terms of lowering the Restructure Mechanism. In any case, it simply is not equitable to burden incumbent local exchange carriers having high rates with increased costs to fund the Restructure Mechanism. There is an issue of vintage regulation with which the FCC must wrestle and the Federal Benchmark Mechanism is designed to recognize this important matter. The Federal Benchmark Mechanism is a reasonable solution to the Restructure Mechanism, one with which the MPSC agrees. In addition, as noted above while the MPSC does not support the Plan, it does support the framework of issues and the import ascribed to some aspects. If for example, the Plan includes in some form a Restructure Mechanism, then a Federal Benchmark Mechanism is essential.

The Federal Benchmark Mechanism is a proxy measure for the amount of prior rebalancing in a state. In this regard, it is not perfect but the perfect should not rise to and

become an enemy of the good. There certainly are rate adders for basic local service that are excluded and that would further raise certain incumbent local exchange carrier rates above the \$25 cap in the Federal Benchmark Mechanism (e.g., zone increment charges). The MPSC has not raised this issue as it is not essential for some progress to be made if the FCC were to adopt the Plan's Restructure Mechanism.

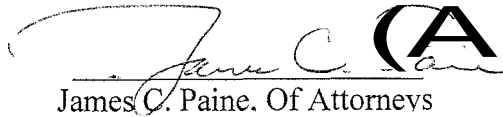
The MPSC shares the National Association of State Utility Consumer Advocate's concern that some might view the Federal Benchmark Mechanism as preempting the ongoing FCC investigation involving the remand from the 10th Circuit Court of Appeals of the FCC's high-cost support mechanism for non-rural telephone companies. However the MPSC considers such views as inherently flawed. The MPSC is, along with other state commissions (Vermont, Kentucky, Nebraska and South Dakota), a signatory to a March 19, 2007 letter to Chairman Martin. In that letter, the states urge the FCC to establish a timetable to respond to the court's second remand. The MPSC does not believe the method by which the FCC addresses the Plan should in any way release the FCC from its responsibility of satisfying the court's remand. The March 19, 2007 letter co-signed by the MPSC and sent to Chairman Martin did not suggest that the Federal Benchmark Mechanism would or could serve as means for the FCC to address issues contained in, or its obligation to address, the court's outstanding second remand. The MPSC does not believe the Federal Benchmark Mechanism necessarily has any relationship to the issues the FCC has yet to address that are contained in the court's second remand.

IV. CONCLUSION

The MPSC commends the Early Adopter States for their effort. The Federal Benchmark Mechanism is a reasonable solution to one of the Plan's problems. The commenters whom we cite in these reply comments have taken time to analyze and comment on the Federal Benchmark Mechanism. We ask that their concerns be considered in any plan that the FCC adopts that incorporates any variant of a Restructure Mechanism.

April 12, 2007

Respectfully submitted,



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